

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

GUFF WILLIAMS *et al.*,

Plaintiffs,

v.

UTILIMASTER CORPORATION,

Defendant.

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CAUSE NO. 3:06-CV-0076 RM

REPORT AND RECOMMENDATION

On January 27, 2006, this matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for the disposition of Plaintiffs' complaint. On April 7, 2006, this Court ordered Plaintiffs to file an amended complaint. On April 27, 2006 Plaintiffs filed a motion for an extension of time to file an amended complaint and a motion for appointment of counsel. This Court granted Plaintiffs' motion and gave Plaintiffs until July 11, 2006, to file an amended complaint and provide this Court with a description of their attempts to secure counsel. However, Plaintiffs never filed their amended complaint or notified this Court of their efforts to retain counsel. On August 10, 2006, this Court ordered the Plaintiffs to show cause and explain to this Court why they had failed to file an amended complaint or to notify this Court of their efforts to retain counsel. Plaintiffs were given until September 6, 2006, to explain their inaction and why this case should not be dismissed for failure to prosecute their claim. As of this date, Plaintiffs still have not responded to this Court's order or the order to show cause, despite this Court's warning pursuant to Timms v. Frank, 953 F.2d 281, 285-86 (7th Cir. 1992) and Lewis v.

Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to do so may result in a dismissal of their case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute his claim or to comply with court orders. Plaintiffs have failed to comply with two court orders, and have provided no explanation for their inaction. Because Plaintiffs have not responded to this Court's orders, this Court can only assume that Plaintiffs have abandoned their case. Consequently, for the aforementioned reasons, this Court **RECOMMENDS** that Plaintiffs' case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed. R. Civ. P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.

SO ORDERED.

Dated this 15th Day of September, 2006.

S/Christopher A. Nuechterlein

Christopher A. Nuechterlein
United States Magistrate Judge

cc: Williams